



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 37] नई दिल्ली, शुक्रवार, दिसम्बर 02, 2016/ अग्रहायण 11, 1938 (शक)

No. 37] NEW DELHI, FRIDAY, DECEMBER 02, 2016/AGRAHAYANA 11, 1938 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in Rajya Sabha on 2nd December, 2016:—

### I

#### BILL NO. LIX OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (i) This Act may be called the Constitution (Amendment) Act, 2016.  
(ii) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Insertion of  
new article  
21B.

“21B. The State shall provide affordable healthcare and affordable medicine to all citizens in such manner as the State may, by law, determine”.

## STATEMENT OF OBJECTS AND REASONS

The Constitution of India in article 47 has made a provision for 'raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties'. But we could not achieve this goal and million of citizens are denied access to health care and medicine due to unaffordable hospitals and medical expenses. The public health system is not in a position to provide universal and free health care to its citizens. The growing private sector in the health care segment has become unaffordable even for a citizen having reasonable income. It is the duty of the state to treat health care as occupation or profession and profiteering should not be permitted. In the light of the above, it is a duty of the state to intervene and provide universal affordable health care to its citizens. In order to fulfill this goal, it is felt that an explicit provision should be made in the Part III relating to Fundamental Rights of the Constitution.

The Bill seeks to achieve the above objectives.

Hence, this Bill.

K.K. RAGESH

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for making the right of health a fundamental right. It provides that every citizen shall be entitled to get affordable healthcare and medicines as may be prescribed by the appropriate Government by law. Such Bills, if enacted, by Parliament or State Legislatures will involve expenditure recurring and non-recurring from the Consolidated Fund of India as well as Consolidated Fund of the concerned State. However, it is not possible to access the actual financial expenditure likely to be incurred at this stage.

## II

## BILL NO. LV OF 2016

*A Bill to provide for welfare of women by providing fund and creating employment opportunities and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Women Welfare Act, 2016.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—
  - (a) "appropriate Government" means in the case of a state, the Government of that State, in other cases the Central Government;
  - (b) "fund" means Women Welfare Fund set up under Section 3:
  - (c) "prescribed" means prescribed by rules made under this Act;

- 3.** (1) The Central Government shall by notification in the Official Gazette set up a Fund to be known as Women Welfare Fund for the purposes of taking welfare measures for Women. Women Welfare Fund.
- (2) The Fund shall consist of contributions by Central Government and State governments in such ratio as may be prescribed and donations received from organisations and individuals.
- 4.** The Central Government shall reserve at least thirty-three per cent of jobs for women in all Central Government Services and organisations under its control. Reservation of jobs in Central Government.
- 5.** The appropriate Government shall,—
- (i) set up such number of women employment centres in every district as may be prescribed to provide assistance to women for employment or self employment;
- (ii) reserve land or housing sites for women;
- (iii) provide free health care facilities and maternity benefits upto first two children;
- (iv) set up women hostels wherein all facilities shall be provided free of cost;
- (v) pay sustenance allowance or old age pension to women who are destitute or widows and having no source of regular income;
- (vi) provide free training to women for taking up employment or self employment;
- (vii) provide scholarships to girl students; and
- (viii) reserve at least thirty per cent of seats for women in all educational institutions including higher professional and technical institutions. Appropriate Government to undertake Welfare Measures for Women.
- 6.** The Central Government shall provide funds to the State governments for setting up of special courts for women in every district. Central Government to provide funds for special Courts.
- 7.** The Central Government shall ensure that every commercial bank, including private and foreign banks provide loans to women at the rate of five per cent simple interest for setting up self employment units. Central Government to ensure loan to women.
- 8.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Women constitute fifty per cent of the population in the country. Though sixty-ninth years have passed since independence, yet there has been no improvement in the condition of women. Several efforts taken by the Government have yielded some results, yet much has to be done to improve their lot. The women do not have ample access to schools or employment opportunities. Only a concrete reservation system in educational institutions or government jobs or special employment or self employment opportunities will help them. Crimes against women are increasing and it takes very long for disposal of cases. Special courts can only help quick disposal of cases.

There is no social security for women in distress. The Government should make some provision for them. Therefore, it is proposed to bring a comprehensive legislation for women welfare.

Hence this Bill.

SASIKALA PUSHPA

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of Women Welfare Fund consisting of contributions by Central Government and other sources. Clause 5 provides for setting up of employment centres, reservation of land or housing sites and providing hostels, pensions, scholarships, etc. to women by the appropriate Government. Clause 6 of the Bill contains the provision for setting up of special courts in every district by the Central Government.

It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum and rupees two thousand crore by way of non-recurring expenditure.

---

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## III

## BILL NO. L OF 2016

*A Bill to provide for equal pay to women workers and their welfare and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Women Workers (Equal Pay and Welfare) Act, 2016.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;



(b) "prescribed" means prescribed by rules made under this Act;

(c) "women worker" means a woman worker engaged in any shop, establishment, industry, factory or agricultural operations or any other work where physical labour is required.

**3.** Notwithstanding anything contained in any other law for the time being in force, every woman worker shall be paid equal pay for equal work performed by her as compared to a male worker.

Equal pay for equal work.

**4.** Every person who is the owner or the in-charge of any establishment, industry, factory or activity, where woman workers are engaged shall provide the following facilities for such workers at the place of work:—

Facilities to be provided to the women by employer.

(i) Creche including mobile creche facilities;

(ii) rest rooms;

(iii) separate toilets;

(iv) drinking water; and

(v) health care facilities.

**5.** Every woman worker shall be entitled to half an hour rest after every three hours of work performed by her with lunch break for one hour.

Mandatory rest to women workers.

**6.** The appropriate Government shall appoint inspectors to inspect the facilities provided by employers to women workers at work place and ensure compliance of the provisions of this Act.

Appointment of Inspectors.

**7.** Whoever, contravenes the provisions of,—

Penalty.

(i) section 3 shall be punishable with fine which may extend to rupees five lakhs and the licence of such employer or the establishments shall also be cancelled.

(ii) sections 4 and 5, shall be punishable with fine which may extend to rupees ten lakhs.

**8.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to equal pay for equal work.

Overriding effect of the Act.

**9.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

It has been observed that women workers are not paid equal wages for equal work done by them as compared to their male counterparts and are given less wages though, the concept of equality enshrined in the preamble has also found expression as a fundamental right in article 14 to 16 of the Constitution but in practice, it is not being equally administered. This has resulted into discrimination against women workers. At times, they are asked to acknowledge the receipt of full wages. Though the Equal Remuneration Act, 1976 is in place, it is not complied with. Moreover, women workers are not getting adequate facilities at their work places. At some places, there are no toilets or drinking water facilities for them. The infants of these workers have to be taken care of but there are no creche facilities. There are no proper health facilities or rest rooms for women workers. Due to biological reasons, women workers have to take rest after performing work for some period, say, three hours. At present, there is no law providing for facilities to women workers at their work places. Therefore, it is proposed to provide for a comprehensive legislation to make way for equal wages to women workers and provision of certain facilities to them at their work places.

Hence this Bill.

SASIKALA PUSHPA

#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for making certain facilities to women workers at their work places. Some of the organisations under the Government have also to provide these facilities. Clause 6 of the Bill provides for the appointment of Inspectors to inspect the facilities provided by the employers. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. A recurring expenditure to the tune of rupees nine hundred crore per annum and a non-recurring expenditure of rupees five hundred crore is also likely to be involved.

---

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill provides for framing of rules for carrying out the provisions of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

## IV

## BILL NO. LI OF 2016

*A Bill to provide for reservation of posts and appointments for women in services under the Central Government and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Women (Reservation in Services) Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** In this Act, unless the context otherwise requires,—

Definitions.

(c) "services" means the service in connection with the affairs of the Central Government and includes the service in any public sector undertaking or enterprise of any authority under the control of the Central Government.

(a) "prescribed" means prescribed by rules made under this Act; and

(b) "public sector undertakings or enterprises" includes all public sector undertakings, enterprises, Banks and financial institutions wholly owned or managed by the Central Government or in which fifty-one per cent shares are held by the Central Government.

**3.** There shall be reserved thirty-three per cent of all appointments and posts in services for women.

Reservation for women in services.

**4.** The Central Government shall make such provisions relating to relaxation in eligibility conditions, as may be prescribed, for appointment of women in services.

Relaxation in eligibility conditions.

**5.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

India's economic liberalization and rapid growth over the past two decades have helped expose people to more liberal views about women. As a result, more women are stepping out of traditional roles. Female doctors, lawyers, police officers and bureaucrats are common and are now everyday sight in cities. Yet women make up only twenty-two per cent of the work force and though seventy-nine per cent of rural women work in agriculture and more than ninety per cent are in the informal sector with little social protection or land ownership.

In India, women are so deeply engrossed in family affairs and burdened with such heavy domestic responsibilities that in spite of their capabilities, education and aptitude, most of them are unable to enter into Government services on time. Women have only marginal representation in services connected with the affairs of the Union. They are capable of efficiently carrying out various responsibilities connected with the assignments.

It is welcome step that in Gujarat, Bihar and Madhya Pradesh thirty three posts are reserved for females in all Government services. This will help end gender bias and prove to be a great leap towards women empowerment. In order to create a level playing field for all its citizens, women may be provided with preferential precedence and reservation in Government services is expected to considerably increase opportunity for women.

In a bid to boost women's empowerment it is proposed that women get due representation in Government services, it is necessary to reserve thirty-three per cent of all post and services under the Central Government, including public sector undertakings and enterprises; for women by providing them relaxation in matters of age limit, requisite educational qualifications, experience and other conditions of eligibility.

Hence this Bill.

SASIKALA PUSHPA

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## V

## BILL NO. XL OF 2016

*A Bill to provide for an independent audit committee to examine and scrutinize the available and actually disbursed remuneration and statutory benefits to tea workers, constitution of a fund to promote welfare facilities and other special provisions, reservation for their children in colleges and universities and for overall welfare of tea workers and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Tea Workers' (Welfare and Special Provisions) Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) "auction money" means the money collected by tea companies by auctioning respective tea production;



(b) "Audit Committee" means the Tea Workers' Statutory Benefits Audit Committee constituted under section 3;

69 of 1951.

(c) "conveyance expenditure" means any expenditure incurred by tea workers for availing statutory benefits defined under Plantations Labour Act, 1951 or any other benefits defined under this Act;

(d) "employer" means any person or entity or organisation who has the ultimate control over the affairs of the tea plantation, and where the affairs of any tea plantations are entrusted to any other person, such other person shall be deemed to be the employer in relation to that plantation;

(e) "Fund" means Tea Workers' Welfare Fund constituted under section 6 of this Act;

19 of 1952.  
39 of 1972.

(f) "penalty" means any amount collected by the Central Government, from an employer, on account of the delay in the deposit of any fund, by an employer, required to be deposited under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Payment of Gratuity Act, 1972;

(g) "prescribed" means prescribed by rules made under this Act;

69 of 1951.

(h) "statutory benefits" means welfare facilities defined under Plantations Labour Act, 1951 or any facilities prescribed under this Act;

(i) "tea estates" means organised tea estates defined under Plantations Labour Act, 1951;

(j) "tea workers" mean any plantation worker, whether permanent or on contract, involved in cultivation of tea in tea estates;

(k) "unemployment wage" means fifty per cent of salary for up to twelve months or until re-employment, whichever is earlier;

1 of 1948.

(l) "wage" means the minimum wage prescribed by the respective State Government under the Minimum Wages Act, 1948; and

(m) "welfare provisions" means the welfare and reimbursement facilities specified under this Act.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Committee to be known as the Tea Workers' Statutory Benefits Audit Committee to exercise the powers conferred upon and to perform the functions assigned to it, under this Act.

Tea Workers'  
Statutory  
Benefits Audit  
Committee.

(2) The Audit Committee shall consist of,—

(i) a Chairperson to be appointed by the Central Government;

(ii) three Deputy Auditor General, who shall be responsible for the duties as may be prescribed under this act; and

(iii) one Additional Deputy Auditor General each for Eastern, Northern, Southern and North-Eastern regions.

(3) The salary and allowances payable to and other terms and conditions of service of the Chairperson and Members of the Audit Committee shall be such as may be prescribed by the Central Government.

(4) The Audit Committee may appoint such number of officers and staff as may be required for efficient functioning of the Audit Committee.

(5) A member of the Audit Committee shall not be a full-time employee of any tea Company prior to three years of his appointment in the committee.

(6) Save as otherwise expressly provided in this Act, the members of the Audit Committee shall hold office for a term not exceeding three years from the date on which they become member of the Audit Committee:

Provided that notwithstanding the expiry of the term of office of any such member, he shall continue to hold office until the nomination of his successor is notified in the Official Gazette.

Functions of  
Tea Workers'  
Statutory  
Benefits  
Audit  
Committee.

**4.** The Audit Committee shall,—

(a) conduct quarterly audit of statutory benefits, wages and any other welfare provisions mentioned under this Act, which the tea workers are entitled to and actually availed, district-wise and tea farmer-wise in such manner as may be prescribed;

(b) present quarterly audit report to the Tea Board of India and to the Ministry of Agriculture and farmers Welfare; and

(c) make public the audit report at national level through free downloadable electronic format on the web.

Steps to be  
taken by  
Central  
Government  
after  
presentation  
of report.

**5.** The Central Government shall, within one month after the presentation of audit report, take such steps, including confiscation and auction of properties of Tea Companies, as are necessary for payment of wages and availing of statutory benefits.

Constitution  
and  
Utilisation of  
Tea Workers'  
Welfare Fund.

**6. (1)** The Central Government shall, by notification in the Official Gazette, constitute a fund to be called the Tea Workers' Welfare Fund for the purpose of this act with the initial corpus of one thousand crore to be provided by the Central Government by due appropriation made by Parliament in this behalf.

(2) The Fund shall consist of—

(a) any voluntary donation;

(b) any loan, grant-in-aid or subsidy paid by the Central Government or State Government or any local authority or Tea Board;

(c) any sum contributed by the Central Government and concerned state government to the fund to such extent and in such manner, as may be prescribed.

(3) The Fund shall be utilised for—

(a) institutionalisation and operationalization of extra-curricular activities, sports, education and Life Skill Education Centre within every school premises, which are being considered under Plantations Labour Act, 1951 for providing educational facilities.

69 of 1951.

(b) disbursement of a minimum unemployment wage to the tea farmers who get unemployed due to shut down of tea estate, till the time the tea estate get auctioned and they get re-employed.

(c) providing all the statutory benefits, as defined under this Act, to the tea farmers who get unemployed due to shut down of tea estate, till the time the Tea Estate get auctioned and they get re-employed.

(d) organising ancillary training and other vocational programmes for tea workers to make them more skilful in cultivation and employable for other occupations.

(e) undertaking such other activities as may be deemed necessary for carrying out the purposes of this Act.

(4) The Central Government shall provide, from time to time, after due appropriation made by Parliament by law in this behalf requisite funds for carrying out the purposes of this Act.

7. (1) There shall be reserved such number of seats, as may be prescribed for tea workers' children for higher education in universities.

Reservation  
for Tea  
Workers'  
Children.

(2) The minimum eligibility requirement for higher education in universities for tea workers' children shall be that they must have passed the qualifying school or degree examination.

(3) Where the admission is based on screening or written test, both for under-graduate and post-graduate courses, the tea workers' children shall be required to take the test but their merit list shall be drawn separately.

(4) The colleges shall fill all seats reserved for children of tea workers.

(5) The relaxation to the extent of ten percent of the minimum eligibility marks prescribed for general category candidates shall be given to the tea workers' children.

(6) The seats reserved for the tea workers' children may be transferred to the general category, after such period as may be prescribed.

8. (1) Upon change of ownership of a tea estate, the new owner shall sign a No-Objection Certificate in such form and in such manner as may be prescribed for making the payment of due wages, statutory benefits and other benefits to the tea workers employed under the earlier owner.

Payment of  
due Wages.

(2) Tea workers shall have the right over the auction money in case any employer fails to fulfil the terms of No-Objection Certificate.

9. Any penalty received by the Central Government from employers shall be paid to the concerned tea worker either through the bank account or by such other means as may be prescribed.

Penalty  
received to be  
paid to Tea  
workers.

10. (1) Any conveyance expenditure or any loss incurred by tea workers to avail the statutory benefits or any benefits prescribed under this Act, shall be reimbursed by the employer.

Reimbursement  
of  
Conveyance  
Expenditure.

(2) The reimbursement shall be made within a month, from the date of submission of the claim.

(3) The employers shall be liable to pay such interest and penalty as may be prescribed, for the failure to comply with the provisions of sub-section (2).

11. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provision of this Act shall be in addition to and not in derogation of any other law for the time being applicable to any matter dealt under this Act.

Act to have  
overriding  
effect and to  
supplement  
other laws.

12. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

India is the second largest producer of tea in the world and the tea sector has positioned itself as the second largest employer in the country with 1.12 million workers. Currently, tea workers are covered in a piece meal fashion under various legislations. They lack comprehensive protection which is needed for their overall development. Some of which are outdated and do not address today's problems. Significant areas like, job security, timely disbursement of salaries and other facilities including development of workers' children, etc., need to be addressed as soon as possible. The proposed Bill aims to address all such issues and also correct the shortcomings of existing laws.

Tea workers supply tea which are sold under various international brands, but individually they don't have even the minimum resources required to fulfil their basic needs. Number of cases have been found where the workers are not actually getting the welfare facilities they are entitled to. In order to address this serious issue, this Bill seeks to introduce an Independent Audit Committee which will have authority to examine whether the entitled benefits reach the workers without any problem and powers to intervene in cases of delay in payments to workers. Shutdown of any operation leads to unemployment as it is not easy for un-skilled tea workers, residing in remote areas, to get another job to sustain their livelihood. Hence, a Workers' Welfare Fund will be constituted, under this Bill, to take care of workers during times of unemployment due to shutdown of tea estates, by providing them unemployment wage and welfare facilities. This is to help them in the interim time till they get re-employed. After the economic reforms of the country, various technological and environmental changes have occurred in every occupation and businesses which have resulted in the need for un-skilled workers to get trained better to ensure greater efficiency in their work. This Bill will enforce mandatory provision for skill enhancement & ancillary training programmes and other vocational training programs for increasing their employability.

The Government of India's flagship programme, *Sarva Shiksha Abhiyan*, envisages a vision of "*Sab Padhe Sab Badhe*", but when we talk about the children of tea workers living at remote areas, they barely have enough facilities to complete even their elementary education. This Bill introduces provisions to provide reservation in colleges, for ensuring a specific standard of schools and institutionalisation of extra curricular activities centres, sports education & activity cells and life skill education cells within the school premises for the holistic development of their children.

The Government of India allowed one hundred percent FDI in the tea industry fourteen years ago, but it skipped the required initiatives to strengthen its root *i.e.* tea workers. In order to procure a safe and healthy future of tea estate workers, one needs to address their everyday problems. Through this Bill, the common exploitation that the workers face will be kept under check and it also ensure greater access to education for their children. This will lead to a more sustainable life for the tea worker and also cater to the growing aspirations of the next generation.

Hence this Bill.

VIVEK GUPTA

---

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of an Audit Committee and the salary and allowances payable to the members, officers and staffs of the Committee. Clause 6(1) of the Bill provides for the constitution of Tea Workers' Welfare Fund with the initial corpus of one thousand crore rupees. Clause 6(4) provides for the Central Government to provide requisite funds for carrying out the provisions of the Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

A recurring expenditure of about rupee one thousand crore is likely to be involved. Non-recurring expenditure of about one hundred crore will also be involved.

---

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## VI

## BILL NO. LIV OF 2016

*A Bill to provide for the establishment of an Inter-State River Water Authority to look into regulation and development of dams on inter-State rivers, controlling developmental activities on inter-State rivers, monitoring the safety and effects on habitat of dams on inter-State rivers and for all matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-Seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Inter-State River Water Authority Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Declaration  
as to the  
expediency  
of Union  
control.

**2.** It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation and development of inter-State rivers and dams built over them to the extent here in after provided.

Definitions.

**3.** In this Act, unless the context otherwise requires,—

(a) “annual safety audit report” means a report giving the safety status of specified dams and details of effects of specified dams on surrounding environment and habitat including human settlements.

(b) “Authority” means the Inter-State River Water Authority established under section 4;

(c) “dam” means any artificial barrier including appurtenant works constructed across rivers or tributaries thereof with a view to impound, store or divert water;

(d) “inter-State river” means a river which originates in one State and passes through one or more States other than the State in which the river has its origin before it drains into the sea and also include rivulets, tributaries and lakes which have its source from an inter-State river;

(e) “prescribed” means prescribed by the rules made under this Act.

(f) “specified dams” means a dam which is,—

(i) constructed over an inter-State river; and

(ii) above fifteen meters in height, measured from the lowest portion of the general foundation area to the crest; or between ten to fifteen meters in height and capacity of the reservoir is not less than half a million cubic metres;

(g) “State” means the States which have one or more than one inter-State river flowing within their territory;

(h) “State Dam Safety Cell” means the State Dam Safety Cell constituted under section 7.

4. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this Act, an Authority, to be known as the Inter-State River Water Authority consisting of the following members, namely:—

Constitution of Inter-State River Water Authority.

(i) Chairman, Central Water Commission — ex-officio Chairperson;

(ii) Commissioner (Projects), Ministry of Water Resources — ex officio Member;

(iii) Member (Hydro), Central Electricity Authority — ex officio Member;

(iv) Director General, Geological Survey of India — ex officio Member;

(v) Director General, Indian Meteorological Department — ex officio Member;

(vi) One Scientist, Grade E, Ministry of Environment and Forests — ex officio Member;

(vii) Engineers-in-Chief or equivalent officers of Irrigation Departments of States having specified dams — ex officio Members;

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the functioning of the Authority.

(3) The salary, allowances and terms of conditions of services of officers and staff of the Authority shall be such, as may be prescribed.

5. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by the Central Government:

Meetings of the Authority and Selection of the Steering Committee.

Provided that the Authority shall meet at least once every three months.

(2) The expenditure incurred to attend meetings by the Members referred to in sub-clauses (i) to (vii) of section 4, shall be borne by their concerned controlling authorities.

(3) There shall be a Steering Committee consisting of the following members, namely:—

(a) Chairman, Central Water Commission;

(b) Commissioner (Projects), Ministry of Water Resources; and

(c) two members selected from Members referred to in sub-clause (vii) of section 4.

(4) The two members in Steering Committee among Members referred to in sub-clause (vii) of section 4, shall have a term of six months and on expiry of their term, another two members shall be chosen amongst themselves.

(5) All issues that come up before the Authority shall be decided by a majority of votes of members of the Steering Committee, and in the event of an equality of votes, the Chairman, Central Water Commission, shall have a casting vote.

(6) The Steering Committee shall, on every issue, deliberate and take suggestions from all members of the Authority present, before going in for a vote.

(7) The final decision of the Authority shall be taken by the Steering Committee.

Functions of  
the Authority.

**6.** (1) The Authority shall discharge such functions as may be necessary to ensure equitable distribution of water from inter-State rivers to respective States involved, ensure proper inspection and maintenance of all specified dams in the country and ensure their safe functioning.

(2) Without prejudice to the provisions contained in sub-section (1), the functions of the Authority shall include to:—

(a) analyse water needs of each state considering rainfall patterns, agricultural needs of state and deciding on the amount of water to be released to said states through specified dams within the states.

(b) revise the existing water awards to states once in every six months, taking into account drought time, to ensure that upper riparian states are not affected.

(c) monitor and evaluate dam safety practices in all specified dams and suggest guidelines to bring dam safety practices in conformity with latest international practices consistent with Indian conditions;

(d) monitor broadly the functioning of State Dam Safety Cells, as the case may be.

(e) look into and study environmental effects due to specified dams such as soil erosion, deforestation, effect on wildlife and other existing water bodies and advise the Central Government on appropriate remedial actions.

(f) study the effects of specified dams on people living in surrounding areas and advise the Central Government on necessary rehabilitation measures.

(g) examine all proposals for construction of dams on inter-State rivers and no new dams shall be constructed on inter-State rivers without prior approval from the Authority.

(h) redress grievances of states with regard to decisions made by the Authority and resolve it in a time bound manner by forming a Committee of three members as specified in section 8.

(3) The Authority shall also disseminate the knowledge and information collected to the State Dam Safety Cells.

State Dam  
Safety Cells.

**7.** (1) Every State having one or more specified dams shall establish under its Water Resource Department or Irrigation Department or the department dealing with matters of water resources, a separate Cell known as the State Dam Safety Cell headed by an Officer not below the rank of Superintending Engineer or equivalent.

(2) The constitution of the State Dam Safety Cell shall be such as may be prescribed by the State Government.



(3) The administrative and other expenses of the State Dam Safety Cells shall be borne by the concerned State Governments.

(4) Every State Dam Safety Cell shall:—

- (a) keep perpetual surveillance;
- (b) monitor maintenance;
- (c) carry out routine inspection,

of all specified dams falling within its State, to ensure continued safety of such specified dams and take such measures as may be necessary to address safety concerns that are noticed.

(5) Every State Dam Safety Cell shall provide information regarding all specified dams under its jurisdiction and shall act with prior approval from the Authority as and when required by the Authority.

(6) Every State Dam Safety Cell shall submit an audit report every three months, of all specified dams under its jurisdiction, to the Authority.

**8. (1)** The Authority shall constitute a permanent expert redressal committee consisting of three members selected by the Steering Committee from amongst persons who have served as a Judge of the Supreme Court of India.

Dispute  
Resolution  
within the  
Authority.

(2) If it appears to the Government of any State that the decision of the Authority is in any way against the interests of the particular State or if any State refuses to implement the terms proposed by the Authority, the said State shall have the right to approach the expert redressal committee.

(3) The redressal committee shall submit its report on any case that arises before it within a period of six months to the Authority.

**9.** The Central Government, shall from time to time provide, after due appropriation made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.

Government to  
provide funds.

**10.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty.

Power to  
remove  
difficulty.

**11.** The Central Government, in consultation with the State Governments, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make  
rules.

## STATEMENT OF OBJECTS AND REASONS

Rivers are rich sources of habitat. People from past, have migrated and settled around rivers. Thus it shows how important water sources are for survival of humans. Our country, has 14 major rivers. All of them are inter state rivers. More than 21 states have at least one or more inter-state rivers flowing through them. Conflicts arising between States in sharing the river water has been at the forefront of issues in our country. A Central Control over inter state dams is lacking and river water tribunals, which adjudicate on disputes, have prolonged the cases without any fruitful results.

As civilizational demand increases, river water which was mainly used for irrigation purposes, now also has to cater to needs of fast growing industries. Today, each State is competing for the welfare of its own people and hence trying to maximise utilisation of the river water flowing within their territory. Compounded by the situation of uneven monsoons, our farmers, who are the backbone of this country, are the worst affected. Disputes between states have led to bad blood between its people thereby in a subtle way compromising the integrity of the nation. Our founding fathers had put their minds into this problem and had enshrined certain powers in the Constitution for the Union Government in this regard. The provision under Article 262, gives the parliament the power to create laws on adjudicating disputes between state regarding river water.

Therefore it is proposed in this Bill to constitute an Inter-State River Water Authority consisting of members from the concerned Ministries, expert bodies and from all States having at least one inter-state river within their territory. It is proposed that this authority will have the exclusive powers to regulate flow of water and monitor water levels on all dams present over inter-state rivers. Any dispute arising between the State and the Authority will be taken up by a Committee formed under the Authority consisting of three retired Supreme Court judges. This committee should give its decision in six months and it will be binding on the States. Any new projects on inter-state rivers will require the prior approval of the Authority. It will also have the powers to issue detailed guidelines regarding dam safety by establishing Dam safety councils in states to carry out regular audits and frame guidelines advising the Government on issues relating to rehabilitation and compensation for people affected due to dams on inter-state rivers.

This Bill, by providing the power to regulate dams on inter-state rivers, to an independent body comprising of the union, states and other experts, will help solve the problem of states acting on their own accord. This will result in an atmosphere of better cooperation among the stakeholders, leading to greater efficient usage of our water resources.

Hence this Bill.

VIVEK GUPTA

#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of Inter-State River Water Authority and also appointment of such number of officers and staffs for its functioning. Clause 9 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted will involve recurring expenditure of one hundred crore rupees per annum which shall be not from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees fifty crore is also likely to be involved.

---

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make necessary rules for making rules, by notification in the official gazette for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

## VII

## BILL NO. LVII OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, and  
commencement.

1. (I) This Act may be called the Constitution (Amendment) Act, 2016.

(2) It shall be deemed to have come into force on the 10th day of July, 2013.

Amendment of  
article 102.

2. In article 102 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(1A) Nothing in clause (1) of this article shall prevent the Parliament from making any law containing special provisions concerning the elected members of either House of Parliament with regard to the date of disqualification and such other matters pertaining to the rights and privileges of the elected members.”

Amendment of  
article 191.

3. In article 191 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(1A) Nothing in clause (1) of this article shall prevent the Parliament from making any law containing special provisions concerning the elected members of the Legislative Assembly or Legislative Council of a State with regard to the date of disqualification and such other matters pertaining to the rights and privileges of the elected members.”

## STATEMENT OF OBJECTS AND REASONS

The Representation of the People Act, 1951 provides for the conduct of elections of the Houses of Parliament and the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

Section 8 of the said Act provides that a person convicted of an offence mentioned in the said section shall be disqualified from the date of conviction and the disqualification is to be continued for such period as specified in that section. sub-section (4) thereof carves out an exception providing that the disqualification under sub-sections (1), (2) or (3) of the said section shall not take effect in the case of a sitting member of Parliament or the Legislature of a State until three months have elapsed from the date of conviction or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

The Supreme Court in *Lilly Thomas Vs. Union of India and others* [W.P. (Civil) No. 490 of 2005], in its judgement dated 10th July, 2013 has held that Parliament has no power to enact sub-section (4) of section 8 of the said Act and declared that the said provision as *ultra vires* of the Constitution and judgement be given prospective effect the Court also observed that in view of the provisions of the article 102(3)(1)(e)(a) and article 191 (1) (e), Parliament has power to make law laying down the same disqualifications for a person who is to be chosen as member of either House of Parliament or as a member of the Legislative Assembly or Legislative Council of a State and for a person who is a sitting member of a House of Parliament or a House of the State Legislature. The Honourable Court has also held that disqualification is instantaneous unless judicially redressed by an order of the appellate/revisional court suspending the operation of such conviction.

Having regard to the fact that there are rights and privileges constitutionally mandated in respect of elected Members of the Parliament and Legislatures, imbued with the obligation of espousing the cause of the electorate in the law-making bodies, it is deemed fit and proper to enable the law to recognise such distinction between the elected members and persons who seek such election *vis-a-vis* the effects of disqualification under the law referable to article 102(1) (e) and article 191(1) (e).

It is further noticed that the disqualification of an elected member immediately from the date of conviction and sentence and vacation of his Parliamentary or Legislative seat creates vacuum in respect of representation of the people in the Lower House and Vidhan Sabha as case may be. There cannot be any vacuum in respect of representation of people in an elective democracy. This is more so because, the right of the electors to be represented in the legislative process is a tenet of elective democracy. Further, the elections to the seat so vacated by elected member owing to his disqualification given effect instantaneously, would incur considerable expenditure to the Consolidated Fund of India.

It is further noticed that should a High Court or Supreme Court in its final judgement overrule or set aside the conviction or sentence, any process of bye-election initiated within six months of the vacancy under section 151A of the Representation of People Act, 1951 resulting in election of another person, cannot be reversed. In the Interregnum, if the elected member is deprived of his rights and Privileges of being an elected Member, the injury to the elected Member is irreparable including the right of the electors to be represented by such elected Member.

Therefore, it has been proposed to amend the provisions of article 102 and article 191 of the Constitution of India to empower Parliament to provide for special provisions in regard to elected members *vis-a-vis* disqualification by operation of law referable to article 102(1) (e) and 191(1) (e) of the Constitution validating section 8 (4) of the Representation of People Act, 1951, by legislatively removing the basis of the judgement of the Supreme Court in Lily Thomas case. The amendment is proposed with retrospective effect, *i.e.*, 10th July, 2013, the date on which the honourable Supreme Court prospectively declared section 8(4) of the Representation of People Act, 1951 as *ultra vires*.

The Bill seeks to achieve the above objectives.

Hence this Bill.

V. VIJAYASAI REDDY

---

SHUMSHER K. SHERIFF,  
*Secretary-General.*